

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 27, 2005

Date

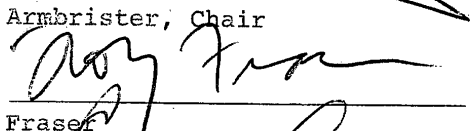
Honorable David Dewhurst
President of the Senate

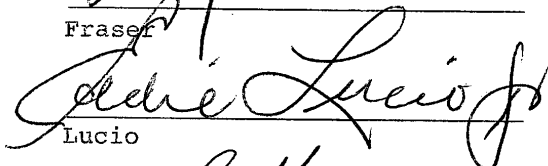
Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1835 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.


Armbrister, Chair

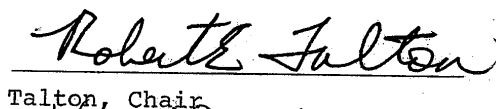

Fraser

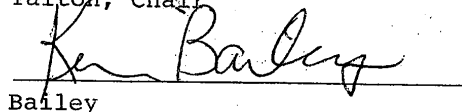

Lucio


Madla


On the part of the Senate

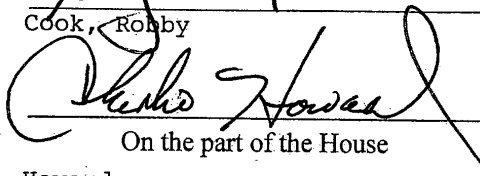
Wentworth


Talton, Chair


Bailey

Blake


Cook, Ronby


On the part of the House

Howard

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 1835

A BILL TO BE ENTITLED

AN ACT

relating to the apportionment of municipal infrastructure costs in regard to certain property development projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.904 to read as follows:

Sec. 212.904. APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE COSTS. (a) If a municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality.

(b) A developer who disputes the determination made under Subsection (a) may appeal to the governing body of the municipality. At the appeal, the developer may present evidence and testimony under procedures adopted by the governing body. After hearing any testimony and reviewing the evidence, the governing body shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

1 (c) A developer may appeal the determination of the
2 governing body to a county or district court of the county in which
3 the development project is located within 30 days of the final
4 determination by the governing body.

5 (d) A municipality may not require a developer to waive the
6 right of appeal authorized by this section as a condition of
7 approval for a development project.

8 (e) A developer who prevails in an appeal under this section
9 is entitled to applicable costs and to reasonable attorney's fees,
10 including expert witness fees.

11 (f) This section does not diminish the authority or modify
12 the procedures specified by Chapter 395.

13 SECTION 2. The change in law made by this Act applies to the
14 approval of a development project that is not finally adjudicated
15 before the effective date of this Act.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2005.

House Bill 1835
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Adds Section 212.904, Local Government Code. Provides that if a municipality requires, as a condition of approval for a development project, that a developer bear a portion of the costs of municipal infrastructure improvements, the developer's portion of the costs may not exceed an amount determined and approved in a certain manner. Sets out provisions for a developer to appeal the determination and provides that the prevailing party in an appeal is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees. Defines "prevailing party."

SECTION 2. Provides that the change in law made by this Act applies only to municipal approval of a development project that occurs on or after the effective date of this Act.

SECTION 3. Effective date.

SENATE VERSION

SECTION 1. Same as House version except refers to the costs of municipal infrastructure improvements *beyond the municipality's minimum adopted standards for on-site development* and removes provisions relating to the prevailing party's entitlement to costs and fees. (FA2)

SECTION 2. Same as House version.

SECTION 3. Same as House version.

CONFERENCE

SECTION 1. Same as House version except removes the definition of "prevailing party" and excludes a municipality, if it is the prevailing party, from entitlement to costs and fees.

SECTION 2. Provides that the changes in law made by this Act apply to the approval of a development project that is not finally adjudicated before the effective date of this Act.

SECTION 3. Same as House version.